

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2002-0051  
TIME SCHEDULE ORDER

FOR

BRIAN CRAIG  
CRAIG WASTE OIL SPILL

Humboldt County

The California Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. Mr. Brian Craig owns property identified by the Humboldt County Assessor's Office as Parcel Numbers 217-225-006 and 217-225-007 (hereinafter, collectively, "the Site") located in the Eel River Hydrologic Unit (111.00).
2. On May 19, 2000, the Humboldt County Division of Environmental Health (HCDEH) responded to an Office of Emergency Services (OES) hazardous materials spill report. The OES report was filed following the discovery of diesel contamination and other potential contaminants at the Site by the Humboldt County Sheriff's Office and the Drug Enforcement Agency during an enforcement action on a marijuana growing operation. Soil samples collected at the Site by HCDEH revealed the detection of Total Petroleum Hydrocarbons as grease and oil at 14,000 ug/g (ppm) and TPH Diesel at 30,000 ppm. A contaminant discharge report was submitted by the HCDEH to the Regional Water Board on May 30, 2000.
3. Pursuant to CWC Section 13267(b), the Executive Officer of the Regional Water Board issued an order to Mr. Craig on August 30, 2000, requiring submittal of a workplan for investigation and cleanup by October 5, 2000, and a report describing implementation of the workplan by January 5, 2001. A workplan was submitted on November 27, 2000, and approved for implementation on December 14, 2000. A report describing the implementation of the workplan was not received by January 5, 2001. On February 2, 2001, Regional Water Board staff notified Mr. Craig of the delinquent report and requested submittal of the report by February 20, 2001. On April 17, 2001, the Executive Officer of the Regional Water Board issued an order to Mr. Craig pursuant to CWC Section 13267(b) requiring submittal of a report describing implementation of the workplan by April 30, 2001. Mr. Craig failed to submit the required report, thereby violating CWC Section 13267(b).
4. On November 30, 2001, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2001-0204 to Mr. Craig for his violation of CWC Section 13267(b). However, the complaint was returned as "Unclaimed" by the United States Postal Service to the Regional Water Board, thereby indicating inadequate notice to Mr. Craig of the complaint and hearing on this matter.
5. On January 14, 2002, Mr. Kenneth Bareilles, an attorney representing Mr. Craig, submitted documentation to the Regional Water Board authorizing him as the representative to receive service and notice on behalf of Mr. Craig.
6. On January 18, 2002, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2002-0015 (ACLC) to Mr. Craig, and provided copies to Mr. Craig, via his representative, for violations of CWC Section 13267(b). The Executive Officer proposed in the ACLC an Administrative Civil Liability in the amount of \$30,000, with \$15,000 of that amount to be suspended contingent upon submittal of an adequate report of workplan implementation by

February 4, 2002. The report of workplan implementation was not submitted by February 4, 2002, and was not received by the February 28, 2002 public hearing for this matter.

7. On February 28, 2002, a public hearing in the matter of the ACLC issued to Mr. Craig was held by the Regional Water Board for violations of Section 13267(b) of the California Water Code. At the hearing, the Regional Water Board issued an Administrative Civil Liability Order to Mr. Craig in the amount of \$60,000 and directed staff to prepare a Time Schedule Order to be considered by the Regional Water Board. The Time Schedule Order is to be considered by the Regional Water Board at a public hearing on [May 16, 2002].
8. On April 30, 2002, the Executive Officer issued Cleanup and Abatement Order No. R1-2002-0050 to Mr. Craig. Cleanup and Abatement Order No. R1-2002-0050 directs Mr. Craig to perform the following tasks: 1.) By July 15, 2002, begin implementing the workplan approved on December 14, 2000, to investigate and cleanup waste and petroleum contamination; 2.) By September 16, 2002, submit report of site investigation for waste and petroleum contamination that contains the information collected during the implementation of the approved site investigation workplan, and; 3.) By September 16, 2002, submit a report that includes tasks and an implementation schedule for additional cleanup work. Because of his past failure to comply with Regional Water Board CWC section 13267(b) orders, Mr. Craig threatens to violate the provisions of Cleanup and Abatement Order No. R1-2002-0050.
9. Section 13308(a) of the California Water Code states that "If the regional board determines there is a threatened or continuing violation of any cleanup or abatement order, cease and desist order, or any order issued under section 13304, 13267 or 13338, the regional board may issue an order establishing a time schedule and prescribing a civil penalty which shall become due if compliance is not achieved in accordance with that time schedule."
10. The Discharger has violated two CWC section 13267(b) orders for which the Regional Water Board may issue an order establishing a time schedule and prescribing a civil penalty which shall become due if compliance is not achieved in accordance with the time schedule. The amount of the civil penalty must be based upon the amount reasonably necessary to achieve compliance, and cannot include any amount intended to punish or redress previous violations. Additionally, the amount of the penalty may not exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.
11. If the Discharger fails to comply with the time schedule contained in this Order, he shall be liable civilly in an amount not to exceed the amount prescribed herein in this Order, a complaint may be issued pursuant to Water Code Section 13323(a) alleging the violations(s) of the Time Schedule Order and setting forth the amount of civil liability due under this Order.
12. Civil penalties of \$500/day for failure to begin implementing the approved workplan and \$5,000 each for failure to submit the site investigation and further cleanup reports are necessary to achieve compliance because past non-compliance that resulted in a \$60,000 administrative civil liability order did not induce the discharger to rectify continuing violations. Any lesser amount of civil liability therefore will not create a sufficient disincentive for further violations.
13. An evidentiary hearing on this matter was held before the Regional Water Board on May 16, 2002, at the Eureka City Council Chambers, 531 K Street, Eureka, California. The Regional Water Board Considered all evidence presented at the hearing to decide whether to adopt a proposed

Time Schedule Order, to refer the matter to the Attorney General for recovery of judicial liability, or take other enforcement action.

The adoption of a Time Schedule Order for Administrative Civil Liability is an enforcement action, and is therefore exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et. seq.) pursuant to Title 14, California Code of Regulations, Section 15321.

THEREFORE, IT IS HEREBY ORDERED that the Discharger shall complete the following tasks in accordance with the corresponding due dates or be subject to administrative civil liabilities for noncompliance during the period of July 15, 2002, to September 16, 2002, as follows:

<b>Task</b>	<b>Due Date</b>	<b>Liability</b>	<b>Maximum Liability by Sept. 16, 2002</b>
1. Begin implementing the workplan approved on December 14, 2000, to investigate and clean up waste and petroleum contamination at the Site.	July 15, 2002	\$500/day	\$31,500
<b>Task</b>	<b>Due Date</b>	<b>Liability</b>	<b>Maximum Liability by Sept. 16, 2002</b>
2. Submit a report of site investigation for waste and petroleum contamination that contains the information collected during the implementation of the approved site investigation workplan.	September 16, 2002	\$5,000	\$5,000
<b>Task</b>	<b>Due Date</b>	<b>Liability</b>	<b>Maximum Liability by Sept. 16, 2002</b>
3. Submit a report that includes tasks and an implementation schedule for additional cleanup work.	September 16, 2002	\$5,000	\$5,000

If the Discharger cannot meet any of the above stated due dates, a request for a time extension must be submitted in writing, that explains the reason the due date cannot be met and proposes a date when that task will be accomplished. Due dates extended by the Executive Officer may also include a correspondingly revised civil liability assessment date.

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Susan A. Warner  
Executive Officer

May 16, 2002